



**RECORD OF DECISION  
OCOTILLO SOL PROJECT  
AND  
AMENDMENT TO THE CALIFORNIA DESERT CONSERVATION AREA LAND USE  
MANAGEMENT PLAN**

**LEAD AGENCY:  
UNITED STATES DEPARTMENT OF THE INTERIOR  
BUREAU OF LAND MANAGEMENT**

**ENVIRONMENTAL IMPACT STATEMENT INDEX NO.  
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CASE FILE NUMBER: CACA 51625**

**OCOTILLO SOL PROJECT  
DECISION TO GRANT RIGHT-OF-WAY AND AMEND THE CALIFORNIA DESERT  
CONSERVATION AREA LAND USE MANAGEMENT PLAN**

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# LIST OF ABBREVIATIONS

ACEC	Area of Critical Environmental Concern
APE	Area of Potential Effect
BLM	Bureau of Land Management
BMP	Best Management Practice
CDCA	California Desert Conservation Area
CDFW	California Department of Fish and Wildlife
CFR	Code of Federal Regulations
Department	Department of the Interior
ECCMP	Environmental and Construction Compliance Monitoring Plan
EIS	Environmental Impact Statement
EO	Executive Order
FTHL	Flat-tailed horned lizard
FLPMA	Federal Land Policy and Management Act
IM	Instruction Memorandum
kV	Kilovolt
MW	Megawatt
NEPA	National Environmental Policy Act
NHPA	National Historic Preservation Act
NRHP	National Register of Historic Places
PV	Photovoltaic
ROD	Record of Decision
ROW	Right-of-way
SEZ	Solar Energy Zone
SO	Secretarial Order
Solar PEIS	Programmatic Environmental Impact Statement for Solar Energy Development in Six Southwestern States
USC	United States Code

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## EXECUTIVE SUMMARY

This Record of Decision (ROD) explains the decisions of the Department of the Interior (Department) and Bureau of Land Management (BLM) to approve San Diego Gas & Electric's (Applicant's) application for a right-of-way (ROW) grant for the Ocotillo Sol Project and associated amendment to the California Desert Conservation Area (CDCA) Plan of 1980, as amended.

These decisions are based on our careful consideration of: 1) the information generated during the analytical and consultation processes required by the National Environmental Policy Act (NEPA), National Historic Preservation Act (NHPA), Endangered Species Act (ESA), and Department tribal consultation policies; 2) the reasonable alternatives to the proposed Ocotillo Sol Project and potential for resource conflicts associated with the proposed solar energy facility development project in Imperial County, California; 3) the BLM's balance of essential considerations of national policy and the Ocotillo Sol Project's potential impacts on environmental and cultural resources; and 4) the practicable means to avoid, minimize, or mitigate those impacts. This information was presented and analyzed in the Final Environmental Impact Statement (Final EIS) and Proposed CDCA Plan Amendment for the Ocotillo Sol Project, which was published on July 26, 2013.

This ROD makes the following decisions:

- It approves the issuance of a Federal Land Policy and Management Act (FLPMA) Title V ROW grant to the Applicant to construct, operate, maintain, and decommission the Ocotillo Sol Project, selecting the smaller footprint (102 acres) analyzed as Alternative 3—the Preferred Alternative—in the Final EIS.
- It approves the temporary closures for construction and maintenance of the Project's underground transmission line as described below.
- It also amends the CDCA Plan to identify the 102 acres of public land within the solar facility footprint and laydown area as suitable for solar energy development (Figure 1).

## DECISION RATIONALE

These decisions are made based on a careful balancing of the importance of the Ocotillo Sol Project in assisting the BLM in addressing the following management objectives and helping further the development of environmentally responsible renewable energy to satisfy Federal and state renewable energy goals:



- Executive Order 13212, dated May 18, 2001, which mandates that agencies act expediently and in a manner consistent with applicable laws to increase the production and transmission of energy in a safe and environmentally sound manner.

Section 211 of the Energy Policy Act of 2005, which sets forth the “sense of Congress” that the Secretary of the Interior should seek to have approved 10,000 megawatts (MW) of non-hydropower renewable energy on public lands by 2015.

Figure 1: Selected Alternative for the Ocotillo Sol Solar Project, analyzed in the Ocotillo Sol FEIS/PA as Alternative 3: Reduced Construction Footprint.



- The President’s Climate Action Plan, which was announced on June 25, 2013, and is intended to reduce carbon pollution, prepare the United States for the impacts of climate change, and lead international efforts to address global climate change. To ensure America’s continued leadership in clean energy, the Climate Action Plan set a new goal for the Department to permit enough renewable electricity generation from public lands to power



more than 6 million homes by 2020. This goal will require the approval of 20,000 MW of renewable energy projects on public lands by 2020.

- Secretarial Order 3285A1, dated February 22, 2010, which establishes the development of renewable energy as a priority for the Department.

This balancing is consistent with the BLM's mandate to manage the public lands for multiple use as required by the FLPMA and it is based on full disclosure and involvement, government-to-government consultations with affected Indian tribes, and comprehensive analyses prepared by highly qualified technical experts regarding the potential effects of the project and its alternatives, as reflected in the Final EIS.

In announcing this decision based on the analysis in the record, this ROD emphasizes the following considerations:

- The Ocotillo Sol Project's adverse effects to flat-tailed horned lizard (FTHL) habitat within the Yuha Desert Management Area (YDMA) have been avoided, minimized, or mitigated to the extent feasible and in accordance with the *FTHL Rangewide Management Strategy* (FTHL Interagency Coordinating Committee 2003). Approval of this project is made with full understanding that this project will bring the area closer to the 1 percent disturbance cap within the YDMA. Approval of this project would bring total approved and proposed disturbance in the YDMA to 0.805 percent. The BLM shall require that future management needs will be conducted within the 1 percent cap.
- The Ocotillo Sol Project's adverse effects to burrowing owl have been avoided, minimized, or mitigated to the extent feasible and in accordance with the 2012 California Department of Fish and Wildlife (CDFW) *Staff Report on Burrowing Owl Mitigation* (CDFW 2012).
- The BLM has determined that there would be no historic properties affected, pursuant to 36 Code of Federal Regulations (CFR) 800.4(d)(1).
- The selected alternative minimizes ground disturbance by using the facility footprint as a laydown area.
- The stipulations and mitigation measures adopted by this ROD to ensure compliance with all applicable laws, regulations, standards, guidelines, and policies will mitigate the impacts to environmental resources to the maximum extent possible, including the following resources: air quality, geology and soils, water resources, biological resources, cultural resources, paleontological resources, fire and fuels, visual resources, and public health and safety.

After a careful review of the totality of this information and responding to the comments and concerns identified by members of the public and affected tribes, the Department and the BLM find that the issuance of the Ocotillo Sol Project's right-of-way grant and associated CDCA Plan Amendment are in the public interest.

# 1.0 DECISIONS

## 1.1 BACKGROUND

### 1.1.1 APPLICATION/APPLICANT

San Diego Gas & Electric (Applicant) has filed a FLPMA ROW application (CACA-51625) with the BLM for a ROW grant to construct, operate, maintain, and decommission a 100-acre solar photovoltaic (PV) facility on BLM managed lands. The Applicant's Ocotillo Sol Project will interconnect with the existing Imperial Valley Substation and generate up to 20 MW of electricity. In connection with its consideration of the Applicant's ROW application, the BLM also considered whether to amend the CDCA Plan.

The Applicant's 100-acre solar PV generation facility and 2-acre temporary laydown area will be sited entirely on BLM managed lands adjacent to the existing Imperial Valley Substation in Imperial County, California (see Figures 1-1 and 2-4 in Appendix A of the Final EIS/Proposed CDCA Plan Amendment). The project site will lie within the BLM's Yuha Basin Area of Critical Environmental Concern (ACEC), which is largely coincident with the YDMA. The YDMA was created for the conservation and management of the FTHL as identified in the *FTHL Rangeland Management Strategy, 2003 Revision: An Arizona-California Conservation Strategy* (FTHL Interagency Coordinating Committee) and created through a 1985 amendment to the CDCA Plan. Special considerations related to this location are addressed below.

### 1.1.2 PURPOSE AND NEED

In accordance with FLPMA (Section 103[c]), public lands are to be managed for multiple use that takes into account the long-term needs of future generations for renewable and non-renewable resources. The Secretary of the Interior is authorized to grant ROWs on public lands for systems of generation, transmission, and distribution of electric energy (Section 501[a][4]). Taking into account the BLM's multiple use mandate, the purpose and need for the proposed action is to respond to a FLPMA Title V ROW application submitted by the Applicant to construct, operate, maintain, and decommission a solar PV facility and associated infrastructure on public lands administered by the BLM in compliance with FLPMA, BLM ROW regulations, and other applicable federal laws and policies. The BLM will decide whether to deny the proposed ROW, grant the ROW, or grant the ROW with modifications. The BLM may include any terms, conditions, and stipulations it determines to be in the public interest and may modify the proposed use or changing the route or location of the proposed facilities (43 Code of Federal Regulations [CFR] 2805.10[a][1]).

The Ocotillo Sol Project will assist BLM in addressing the following management objectives and help further the development of environmentally responsible renewable energy:

- Executive Order (EO) 13212, dated May 18, 2001, which mandates that agencies act expediently and in a manner consistent with applicable laws to increase the production and transmission of energy in a safe and environmentally sound manner.
- Section 211 of the Energy Policy Act of 2005, which sets forth the “sense of Congress” that the Secretary of the Interior should seek to have approved 10,000 MW of non-hydropower renewable energy on public lands by 2015<sup>1</sup>.
- Secretarial Order (SO) 3285A1, dated February 22, 2010, which establishes the development of renewable energy as a priority for the Department of the Interior (Department).

In connection with its decision on the Ocotillo Sol Project ROW grant application, the BLM’s action also includes consideration of potential amendments to the CDCA land use plan, as analyzed in the Final EIS alternatives. The CDCA Plan, while recognizing the potential compatibility of solar energy facilities on public lands, requires that all sites associated with power generation or transmission not identified in that plan be considered through the land use plan amendment process. The BLM policy encourages the avoidance of development on lands with high conflict or sensitive resource values (BLM Instruction Memorandum [IM] 2011-061). While the BLM is not required formally to determine whether certain high-conflict lands are, or are not, available for solar energy development, BLM must amend the CDCA Plan if it decides to make that determination. In connection with the proposed project, the BLM is deciding whether to amend the CDCA Plan to identify the Ocotillo Sol Project site as available for solar energy development or whether to amend the CDCA Plan to make high conflict or sensitive resource value areas within the Ocotillo Sol Project application unavailable for solar energy development.

Additionally, the CDCA Plan requires that transmission lines above 161 kilovolts (kV) either be within a designated corridor or allowed outside of a designated corridor. Since the Ocotillo Sol Project’s proposed gen-tie transmission line is entirely within a designated corridor, a plan amendment would not be required for that line because it is already compliant with the applicable CDCA Plan requirements.

### **1.1.3 APPLICANT’S OBJECTIVES**

Under the National Environmental Policy Act (NEPA), the Applicant’s interests and objectives, including any constraints or flexibility with respect to their proposal, help inform the BLM’s

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<sup>1</sup>While the 10,000 MWs have been authorized, on June 25, 2013, the President announced the release of a Climate Action Plan, which set a new goal for the Department of the Interior, as explained below.

decision and cannot be ignored in the NEPA process (IM 2011-059). The Applicant's fundamental objective for the Ocotillo Sol Project is to develop, own, and operate a renewable energy generation facility in the Imperial Valley region of southern California and to deliver the renewable energy and transmission benefits generated by the project to the Applicant's customers consistent with California laws, policies, and mandates. A further objective of the Ocotillo Sol Project is to help stabilize the electrical network and increase reliability by providing future potential opportunity for reactive power, offsetting system energy losses, and serving as an energy source to the Imperial Valley Substation during blackout conditions.

Additional objectives for the Ocotillo Sol Project include the following:

1. Increase the use of renewable energy and reduce greenhouse gas emissions in California consistent with existing California laws, orders, and policies.
2. Develop and refine the project concept and details with input and guidance from the BLM and Imperial County.

In developing their proposed action, the Applicant, in consultation with the BLM, used the following siting criteria to evaluate potential project sites:

- A contiguous site, with flat topography (grade of less than 3 percent) large enough for siting a 20 MW solar PV facility with minimal land disturbance
- Avoidance or mitigation for disturbance of areas that are pristine and biologically sensitive
- Avoidance of high-quality habitat for federally listed species
- Avoidance of known cultural or historic sites and recreational resource areas
- Proximity to transmission facilities with sufficient capacity for the Ocotillo Sol Project output and suitable locations for interconnection
- Proximity to highway and road access
- Availability of contiguous land for sale or lease at a feasible cost

These criteria led the Applicant to evaluate seven private parcels and one additional BLM parcel. These alternative sites and the reasons for their dismissal from detailed analysis under NEPA are discussed in Section 4.2 (Alternatives not Fully Analyzed). In addition, the Applicant conducted preliminary biological, cultural, hydrological, and geological reviews to evaluate site conditions. Based on these reviews, portions of the initial 350-acre Ocotillo Sol Project survey area were considered unsuitable for development and were eliminated from consideration.

Alternative site configurations were developed to avoid or minimize impacts to sensitive environmental resources, such as biological, cultural, and visual resources, to the extent possible. Specific consideration was given to avoiding active FTHL areas, sensitive plant species concentrations, burrowing owl signs, Pinto Wash, and cultural resources.



Additional factors considered by the Applicant include engineering constraints, such as those for existing easements, grading, hydrological, electrical, and security; construction constraints, such as those for safety, cost, and constructability; and interconnection constraints.

## **1.1.4 BLM AUTHORITY**

### **1.1.4.1 FEDERAL LAND POLICY AND MANAGEMENT ACT OF 1976**

The FLPMA establishes policies and procedures for the management of public lands. In Section 102(a)(8), Congress declared that it is the policy of the United States that:

the public lands be managed in a manner that will protect the quality of scientific, scenic, historical, ecological, environmental, air and atmospheric, water resource, and archeological values; that, where appropriate, will preserve and protect certain public lands in their natural condition; that will provide food and habitat for fish and wildlife and domestic animals; and that will provide for outdoor recreation and human occupancy and use (43 USC 1701(a)(8)).

Section 202 of FLPMA and the regulations implementing FLPMA's land use planning provisions (43 CFR subparts 1601 and 1610) provide a process and direction to guide the development, amendment, and revision of land use plans for the use of the public lands.

Title V of FLPMA (43 United States Code (USC) 1761-1771) authorizes the BLM, acting on behalf of the Secretary of the Interior, to authorize a ROW grant on, over, under, and through the public lands for systems for generation, transmission, and distribution of electric energy. The BLM's implementation of its statutory direction for ROW authorizations is detailed in 43 CFR Part 2800. The BLM Authorized Officer administers the ROW authorization and ensures compliance with the terms and conditions of the ROW lease. The Authorized Officer is any employee of the Department to whom the authority to perform the duties described in 43 CFR Part 2800 has been delegated. This authority is derived from the authority of the Secretary of the Interior and may be revoked at any time. The authority to approve all actions pertaining to the granting and management of Title V ROWs on public lands is delegated to the respective BLM State Directors (BLM Manual 1203, Appendix 1, p.33). In California, the authority of the BLM State Director to approve actions pertaining to the granting and management of Title V ROWs has been further delegated to the Field Managers.

With respect to this specific ROW grant, this authority has been delegated to the Field Manager of the El Centro Field Office, who will be responsible for managing the ROW grant for the Ocotillo Sol Project.

#### **1.1.4.2 NATIONAL ENVIRONMENTAL POLICY ACT**

The NEPA Section 102(c) of (42 USC 4321 et seq.) and the Council on Environmental Quality and the Department's implementing regulations (40 CFR Parts 1500–1508 and 43 CFR Part 46, respectively) provide for the integration of NEPA directives into agency planning to ensure appropriate consideration of NEPA's policies and to eliminate delay.

When taking actions such as approving CDCA Plan Amendments and ROW grants, the BLM must comply with the applicable requirements of NEPA and the Council on Environmental Quality's NEPA regulations. Compliance with the NEPA process is intended to assist Federal officials in making decisions about a project that are based on an understanding of the environmental consequences of the decision and identifying actions that protect, restore, and enhance the environment. The Draft EIS/Draft CDCA Plan Amendment, Final EIS, and this ROD document the BLM's compliance with the requirements of NEPA for the Ocotillo Sol Project.

#### **1.1.4.3 CALIFORNIA DESERT CONSERVATION AREA PLAN**

In furtherance of its authority under the FLPMA, the BLM manages public lands in the California Desert District pursuant to the CDCA Plan. The plan, while recognizing the potential compatibility of solar generation facilities on public lands, requires that all sites associated with power generation or transmission not specifically identified in the CDCA Plan for a specific project site be considered through the plan amendment process. Because the CDCA Plan has not previously identified the Ocotillo Sol Project site for power generation, the plan must be further amended to allow a solar energy generation project on that site. The planning criteria for considering an amendment to the CDCA Plan are discussed in CDCA Plan Chapter 4.10, *Land Use and Corridor Analysis*.

#### **1.1.4.4 RELATIONSHIP TO THE SOLAR ENERGY DEVELOPMENT PROGRAMMATIC ENVIRONMENTAL IMPACT STATEMENT**

On October 12, 2012, after the publication of the Draft EIS for the Ocotillo Sol Project, Secretary Salazar signed the ROD for the *Programmatic Environmental Impact Statement for Solar Energy Development in Six Southwestern States* (Solar PEIS). The BLM's purpose and need in developing the Solar PEIS was to respond in an efficient and effective manner to the high interest in siting utility-scale solar energy development on public lands and to ensure consistent application of measures to mitigate the impacts of solar energy development. To accomplish this, the ROD selected an alternative that amends BLM land use plans and categorizes BLM managed public lands into:

- areas that are well-suited for utility-scale solar energy production (identified as Solar Energy Zones [SEZs]);
- areas excluded from future solar development; and
- variance areas, in which solar applications may be considered under a defined variance process on a case-by-case basis.

In addition to defining these areas and the required process for considering applications within the SEZs and variance areas, the Solar PEIS also prescribed programmatic design features for all proposed solar projects and committed to developing a long-term solar monitoring and adaptive management plan and regional mitigation plan. The programmatic design features, long-term solar monitoring and adaptive management plan, and regional mitigation plan are intended to avoid, minimize, and—if necessary—offset impacts from proposed solar projects.

The ROD and associated land use plan amendments analyzed in the Solar PEIS do not apply to pending applications for utility-scale solar energy development on BLM administered lands. The BLM defines “pending” applications as any applications (regardless of place in line) filed within proposed variance and/or exclusion areas before the publication of the Supplement to the Draft Solar PEIS (October 28, 2011) and any applications filed within proposed SEZs before June 30, 2009. Pending applications are not subject to any decisions adopted by the Solar PEIS ROD. As a result, the BLM will process pending solar applications consistent with land use plan decisions in place prior to any amendments by the Solar PEIS ROD. Amendments to pending applications would also not be subject to the decisions adopted by the Solar PEIS ROD provided they meet the criteria identified in Appendix B, Section B.3 of the Solar PEIS. Appendix B, Section B.3 of the Solar PEIS identifies the Ocotillo Sol Project as a pending project.

Although the Solar PEIS ROD categorizes the area surrounding the project site as an exclusion area, the Solar PEIS classifies the Ocotillo Sol Project as a “pending” project. Therefore, it is not subject to the decision in the Solar PEIS ROD to exclude that area from utility-scale solar energy development. Consistent with the Solar PEIS ROD, this project will be processed under the land use plan decisions in place prior to the adoption of the Solar PEIS ROD. As explained below, the Ocotillo Sol Project complies with applicable plan decisions.

#### **1.1.4.5 OTHER GUIDANCE AND REGULATIONS**

The BLM processes ROW grant applications for solar development in accordance with 43 CFR 2804.25 and the BLM’s 2008 “Guidance for Processing Applications for Solar Power Generation Facilities on BLM Administered Public Lands in the California Desert District,” which states:

When all or part of a proposed renewable energy project is located in a designated utility corridor, the impacts of occupying the utility corridor must be analyzed, along with alternatives that would help mitigate the impacts to the utility corridor. The EIS prepared



for a proposed solar energy project should analyze the impact that the project would have on the ability of the utility corridor to serve its intended purpose, i.e., would the corridor continue to retain the capacity to site additional utilities in the corridor or would the project so constrain the available land within the corridor that it would limit the corridor's ability to locate additional linear facilities, e.g. transmission lines, pipelines, etc.

In conjunction with the FLPMA, BLM authorities also include:

- Energy Policy Act (119 Statutes 594, 600), Section 211, which states, "It is the sense of the Congress that the Secretary of the Interior should, before the end of the 10-year period beginning on the date of enactment of this Act, seek to have approved non-hydropower renewable energy projects located on public lands with a generation capacity of at least 10,000 megawatts of electricity."
- The BLM's Solar Energy Development Policy (April 4, 2007), which states that the BLM's general policy is issued under IM 2007-097 Solar Energy Development Policy to facilitate environmentally responsible commercial development of solar energy projects on public lands and to use solar energy systems on BLM facilities where feasible. Applications for commercial solar energy facilities will be processed as ROW authorizations under Title V of FLPMA and 43 CFR, Part 2800. Commercial concentrating solar power or photovoltaic electric generating facilities must comply with BLM's planning, environmental, and ROW application requirements, as do other similar commercial uses.
- EO 13212 (May 18, 2001), which mandates that agencies act expediently and in a manner consistent with applicable laws to increase the "production and transmission of energy in a safe and environmentally sound manner."
- SO 3285 (March 11, 2009), which "establishes the development of renewable energy as a priority for the Department of the Interior."
- IM 2011-59, *National Environmental Policy Act Compliance for Utility-scale Renewable Energy Right-of-way Authorizations*, which reiterates and clarifies existing BLM NEPA policy to assist offices that are analyzing externally generated, utility-scale renewable energy ROW grant applications. It includes examples and guidance applicable to such applications that supplement information in the BLM's NEPA Handbook (H-1790-1) that reflect that utility-scale renewable energy projects are distinct from many other types of land and realty actions due to their size and potential for significant resource conflicts, as well as the priority that has been placed on them by the Department.
- The Climate Action Plan, which the President announced on June 25, 2013, to reduce carbon pollution, prepare the United States for the impacts of climate change, and lead international efforts to address global climate change. To ensure America's continued leadership in clean energy, the Climate Action Plan set a new goal for the Department to permit enough renewable electricity generation from public lands to power more than 6 million homes by

2020. This goal will require the approval of 20,000 MW of renewable energy projects on public lands by 2020.

## **1.2 INFORMATION DEVELOPED SINCE THE FINAL EIS AND ADEQUACY OF NEPA ANALYSIS**

Through public scoping, agency consultation, and the environmental review process, the Draft EIS and Final EIS for the Ocotillo Sol Project and CDCA Plan Amendment considered alternatives for the proposed project. The rationale for selecting Alternative 3, in part, was to reduce the short- and long-term impacts of the alternative with a larger project footprint. Since the preparation and publication of the Final EIS, the terms of mitigation measures for the project have been further refined as explained below. The BLM has analyzed these refinements and additions to the mitigation required for the Project and has determined that they are within the range of alternatives analyzed in the Final EIS and do not require the BLM to supplement the Final EIS.

## **1.3 DECISIONS BEING MADE**

### **1.3.1 RIGHT-OF-WAY**

Under Federal law, the BLM is responsible for processing ROW applications to determine whether and to what extent to authorize proposed projects, such as renewable energy projects and other appurtenant facilities, on land that it manages. Because the project is a privately initiated venture that would be sited on lands managed by the BLM, the Applicant requested a ROW grant from the BLM pursuant to the applicable federal laws and regulations. Under this ROD, a FLPMA ROW grant will be issued to the Applicant in conformance with Title V of FLPMA and the applicable implementing regulations found at 43 CFR Part 2800. The ROW grant will allow the Applicant the right to use, occupy, and develop 102 acres (100 acres for solar facility, 2 acres for temporary laydown) of public lands within the Ocotillo Sol Project footprint to construct, maintain, and decommission the Ocotillo Sol solar facility. The ROW grant will only apply to the BLM administered public lands within the boundary of the Ocotillo Sol Project. The ROW grant will be issued to the Applicant for a term of 30 years, with an option to renew in accordance with 43 CFR 2807.22.

The Applicant's 100-acre solar PV generation facility and 2-acre temporary laydown area will be sited entirely on BLM managed lands adjacent to the existing Imperial Valley Substation in Imperial County, California (see Figure 1-1 in Appendix A of the Final EIS).

The Ocotillo Sol Project components will include the PV modules and mounting structures, a maintenance building with an associated parking area, internal roads, inverters, transformers, and the combining switchgear. Within the 102-acre ROW, the solar field, operations and maintenance building, laydown area, and the switchyard will occupy the majority of the site. About 75 percent of the ROW would be used for the solar panels. The remaining acreage will be used for internal access roads, power lines, switchgear, a step-up transformer, an operations and maintenance building, and the 2-acre temporary laydown area.

An underground 12.47 kV interconnection line will lie in an approximately 2,000-foot trench. This trench will run from the combining switchgear in the northern Ocotillo Sol Project area boundary to a 12.47 kV bus and circuit breaker that will be installed in the Imperial Valley Substation. All interconnection equipment and construction activities will be within the boundary of the Imperial Valley Substation. No transmission system upgrades or modifications outside the Imperial Valley Substation will be required.

The 2-acre construction laydown area will be restored upon completion of project construction and relinquished to the BLM, once BLM agrees that the initial site restoration has been completed to agreed-upon conditions. Restoration, including weed management, will continue until the final restoration condition is acceptable to the BLM. The Applicant has prepared a decommissioning and reclamation plan to address temporary and long-term restoration efforts to return the site to as near as pre-construction state as possible (see Appendix B of the Final EIS).

An existing access road for the Imperial Valley Substation within an existing BLM ROW provides access to the Ocotillo Sol Project site (see Figure 1-1 in Appendix A of the Final EIS). As such, existing access roads will be used during project construction, operation, maintenance, and decommissioning to the extent practicable. New, minor access roads will be constructed between the module rows within the Ocotillo Sol Project area fence line. A gravel parking area will provide parking for up to 15 vehicles and will be adjacent to the maintenance building.

A maintenance building will be constructed on the north end of the Ocotillo Sol Project area adjacent to the existing access road. The building will have a gravel parking area and will house maintenance equipment, spare parts, and the electronic plant monitoring system. This pre-engineered metal building will be approximately 60 feet by 30 feet and will not exceed 25 feet in height. This maintenance building will house electronics to monitor the energy generated at the site. It will also store materials required to maintain the solar PV facility.

The perimeter of the proposed Ocotillo Sol Project area will be secured with chain link fencing, which will consist of 8-foot-tall fencing. Fencing design will minimize potential impacts to wildlife. A FTHL exclusionary fence will be installed along the bottom of the perimeter fence at the onset of Project construction to inhibit FTHL from entering the site. This exclusionary fencing will be designed consistent with protocols established by the BLM authorized officer and

constructed in accordance with Appendix 7 of the *FTHL Rangewide Management Strategy*. The perimeter fence will be in place for the life of the project. The FTHL exclusionsary fence will be evaluated and may be removed after consutrction if the removal would result in a benefit to the FTHL.

The Ocotillo Sol Project construction will move continuously across the project area. PV module mounting and electrical system installation will follow as the racking systems are erected. Construction will continue through completion to commissioning, without phasing of the Ocotillo Sol Project.

Construction and commissioning activities will occur over 8 to 11 months. Construction will occur five days per week for eight hours a day. Construction days and times may vary due to weather (such as extreme heat, storms, and high winds), seasons with regard to wildlife and plant sensitivity or avoidance periods, and construction timelines. Vehicle use during construction will occur during daytime hours in compliance with Imperial County regulations. Routine operation and maintenance activities, with the exception of an emergency, are expected to occur during daytime hours.

The ROD requires the Applicant to secure all necessary Federal, State, and local permits, authorizations, and approvals. Upon receipt of the notice to proceed and by remaining in compliance with the ROW grant, the Applicant will be able to construct, operate, maintain, and decommission the Ocotillo Sol Project.

### **1.3.2 TEMPORARY ROUTE CLOSURES**

The BLM Route 358 runs between the Ocotillo Sol Project and the Imperial Valley Substation. This route will be preserved during construction and operational stages of the Ocotillo Sol Project, with only temporary closures for construction and maintenance of the underground transmission line to the substation. As detailed in the mitigation measures, the Applicant shall provide at least 30 days' notice of any public access restrictions to this section of BLM Route 358 once a more detailed construction schedule is completed. Such notice shall be provided consistent with the requirements of 43 CFR 8354.1 and shall include signage at the access point(s) for this route, including information on alternative access points and the projected dates of closure. The public may also be informed through newspaper advertisments, public venue notices, and/or a public liaison person. The length of any such temporary route closure shall be the minimum length feasible.

### **1.3.3 LAND USE PLAN AMENDMENT**

Through this ROD, the CDCA Plan is amended to identify the Ocotillo Sol Project solar facility site as suitable for solar energy generation per the Final EIS and Proposed CDCA Plan Amendment. Lands outside the Ocotillo Sol ROW, including the 13 acres excluded from the



proposed alternative (see Figure 1), will be subject to the existing land use plan. Under the CDCA Plan, as amended by the Solar PEIS, these lands will be excluded from utility-scale solar development.

The implementation section of the Energy Production and Utility Corridors Element of the CDCA Plan lists a number of Category 3 amendments that have been approved since adoption of the CDCA Plan in 1980. Through this ROD an additional amendment is added to this section to approve the Project that reads: "Permission granted to construct solar energy facility (Ocotillo Sol Project)."

## 1.4 ROW REQUIREMENTS

The BLM uses SF 2800-14 (ROW Lease/Grant) as the instrument to authorize the ROW grants for the project; they include the plan of development and all other terms, conditions, stipulations, and measures required as part of the grant authorization. Consistent with BLM policy, the Ocotillo Sol Project ROW grant will include a diligence development and performance-bonding requirement for installation of facilities consistent with the approved plan of development. The holders shall complete construction within the timeframes approved in the plan of development, but no later than 24 months after start of construction or as otherwise approved by the BLM. Failure to follow due diligence may result in cancellation of the ROW grant.

Prior to termination of the ROW authorization, a final decommissioning plan will be developed in compliance with the standards and requirements for closing a site and will be circulated for approval by interested agencies. The ROW grant potentially could be renewed by the Applicant. According to 43 CFR 2805.15, however, the BLM retains the right to determine whether the ROW grant is renewable. If the Applicant chooses to seek renewal of the ROW grant, an application will be required. Upon review, the BLM would make a decision whether to renew the ROW grant based on compliance history and applicable federal laws and regulations (43 CFR 2807.22[a]).

According to BLM policy (IM 2011-060, as it may be amended), a bond is required for all ROW grants to ensure compliance with the terms and conditions of the authorization and applicable regulatory requirements. The bond will be reviewed periodically (at least every 5 years) by the BLM authorized officer to ensure adequacy of the bond.

## **1.5 FUTURE CHANGES TO THE APPROVED PROJECT**

At various times throughout the project, the need for extra workspace or additional access roads may be identified. Similarly, changes to the project requirements (e.g., mitigation measures, specifications) may be needed to facilitate construction or provide more effective protection of resources. The BLM and grant holder will work together to find solutions when adjustments are necessary for specific field situations to avoid conflicts with adopted mitigation measures or specifications.

The BLM Compliance Project Manager and Compliance Monitors will ensure, as specified in the project's Environmental and Construction Compliance Monitoring Plan (ECCMP), that any adjustments to project requirements that may be required in the future as a result of currently unknown conditions will be made consistent with NEPA and any other applicable legal requirements. A proposed project change that has the potential for creating significant environmental effects will be evaluated to determine whether supplemental NEPA analysis is required. In some cases, an adjustment may also require approval by jurisdictional agencies, or additional consultation as applicable. In general, an adjustment or other modification request must include the following information:

- Detailed description of the location, including maps, photos, and/or other supporting documents;
- How the adjustment request deviates from a project requirement;
- Biological surveys or verification that no biological resources would be significantly impacted;
- Cultural resource surveys or verification that no cultural resources would be significantly impacted; and
- Approval from other agencies (if necessary/applicable).

## **1.6 SUMMARY OF CONCLUSIONS**

The Ocotillo Sol Project is expected to provide climate, employment, and energy security benefits to California and the nation. Most notably, the project will help realize the Federal Energy Policy and state energy policy goals targeted toward increasing renewable energy generation and reducing greenhouse gas emissions. It will provide clean electricity while bringing jobs to the Project area. The Reduced Footprint Alternative for the Ocotillo Sol Project provides the most public benefit, while also minimizing or avoiding to the greatest extent practicable potential impacts on biological, cultural, visual, and other resources.

All the mitigation measures included in the Final EIS as amended by this ROD and the Ocotillo Sol Project's ECCMP are adopted and provided in Appendix A of this ROD and the ECCMP. These measures have been adopted by this ROD either as originally proposed or as modified (see below). These mitigation measures would avoid, minimize, or mitigate potential adverse effects of the Project on cultural and environmental resources. The approval of this project is consistent with the CDCA Plan, the requirements of the YDMA, and the FTHL RMS. Mitigation compliance will be monitored by the BLM.



## 2.0 MITIGATION AND MONITORING

### 2.1 REQUIRED MITIGATION

The Ocotillo Sol Project includes the following measures, terms, and conditions:

- Adopted avoidance, minimization, and mitigation measures identified in this ROD (Appendix A), as may be amended by the BLM. In addition to the mitigation identified in the Final EIS, these mitigation measures include Biological Measures 12, 13, and 21, which are adopted by this ROD.
- The project's ECCMP will include requirements to verify the implementation of and compliance with mitigation measures, including preparation and implementation of plans such as, but not limited to, a weed management plan, fire safety plan, and decommissioning and reclamation plan. The BLM will use the process described in the ECCMP to ensure that the appropriate plans are completed prior to notice to proceed issuance for actions affecting a particular resource or area and ultimately to ensure compliance with the terms and conditions of the ROW grant and applicable plans.

For compliance purposes, the complete language of these measures, terms, conditions, and plans are provided in Appendix A of this ROD and the ECCMP. These measures, terms, conditions, and plans are determined to be in the public interest pursuant to 43 CFR 28015.19(a)(1), since they ensure that the Ocotillo Sol Project will be constructed, operated, maintained and decommissioned in conformity with BLM decisions.

### 2.2 MONITORING AND ENFORCEMENT

Agencies may provide for monitoring to ensure that their decisions are carried out (40 CFR 1505.2[c]). Here, such monitoring will be conducted, in part, through the Project's ECCMP. Mitigation and other conditions established in the Final EIS, as amended herein, or committed to as part of this ROD shall be implemented by the BLM or other appropriate consenting agency (40 CFR 1505.2[c], 1505.3). The BLM shall:

- include appropriate conditions in grants, permits, or other approvals;
- upon request, inform commenting agencies on the progress in carrying out mitigation measures they have proposed and that were adopted by the BLM; and
- upon request and as permitted by law, make available to the public and other agencies the results of relevant monitoring (40 CFR 1505.3).

As the Federal lead agency for the Ocotillo Sol Project under NEPA, the BLM is responsible for ensuring compliance with the ECCMP and all adopted mitigation measures for the Ocotillo Sol Project. The BLM will also incorporate these measures as terms and conditions of the grant. Failure on the part of the grant holder to adhere to these terms and conditions could result in administrative actions up to and including termination of the ROW grant and the removal of facilities and rehabilitation of all public land disturbances.

## **2.3 STATEMENT OF ALL PRACTICABLE MITIGATION ADOPTED**

As required in the BLM *NEPA Handbook H-1790-1* and 40 CFR 1505.2(c), all practicable mitigation measures that are necessary to fully mitigate the potential effects of the Project according to federal laws, rules, policies, and regulations have been adopted by this ROD for the Ocotillo Sol Project. This includes all mitigation measures included in the Final EIS/Proposed CDCA Plan Amendment. The complete language of those measures is provided in Appendix A of this ROD.

## 3.0 MANAGEMENT CONSIDERATIONS

### 3.1 DECISION RATIONALE

This decision approves a ROW grant and associated CDCA Plan Amendment for the Ocotillo Sol Project as described above, in the Final EIS, and in Appendix A of this document and the ECCMP. The BLM's decision to authorize this activity is based on the rationale described throughout the ROD and as detailed in the following sections. The following major issues have been taken into consideration in this decision:

- **Air Quality.** Construction and decommissioning activities for the Ocotillo Sol Project would result in unavoidable adverse impacts to air quality from particulate matter and vehicle emissions. These impacts constitute temporary negligible residual effects. Best management practices (BMPs) and implementation of a dust control plan would minimize impacts. The Ocotillo Sol Project would not trigger exceedance of federal or state conformity levels and would not cause irreversible or irretrievable commitment of air resources. Unavoidable adverse impacts to air quality would be temporary and negligible, primarily during the construction period of the Ocotillo Sol Project.
- **Cultural Resources.** Construction, operation and maintenance, and decommissioning activities for the Ocotillo Sol Project would not affect any historic properties, as no such properties have been identified within the direct impact areas of the project. In the event undocumented cultural resources are discovered during project construction, BMPs and protocols outlined in the *Archaeological Resources Monitoring and Discovery Plan* for the Project will be followed to avoid an impact to the resource(s). In the event undocumented cultural resources are discovered during operation and maintenance, or decommissioning activities, BMPs and protocols outlined in the *Long-Term Archaeological Resources Management Plan* will be followed to avoid an impact to the resource(s). As stated in Appendix A, the *Archaeological Resources Monitoring and Discovery Plan* must be approved by the BLM prior to any ground-disturbing activities, while the *Long-Term Archaeological Resources Management Plan* must be approved by the BLM no later than 60 days prior to completion of Project construction.
- **Geology and Soils.** The Ocotillo Sol Project would result in negligible adverse impacts to soil erosion and compaction during construction, operation and maintenance, and decommissioning activities. Erosion control measures would be implemented to minimize soil erosion during construction. In addition, a stormwater pollution prevention plan would be implemented, which would also minimize erosion potential. There would be an irreversible and irretrievable commitment of soil resources on areas where revegetation fails and subsequent erosion occurs. It is expected that these areas would be small overall and

minimal, if any, erosion would occur. Effects on soils could also occur from petroleum or other hazardous material spills. The BMPs related to hazardous materials spills would be implemented and any affected area would promptly be cleaned and contaminated soil removed.

- **Biological Resources.** Construction, operation and maintenance, and decommissioning activities of the Ocotillo Sol Project would result in direct and indirect impacts to biological resources. The Ocotillo Sol Project would result in the loss of 100 acres of native vegetation and habitat, as well as 2 acres of disturbed vegetation and habitat within the laydown area. These permanent and temporary losses of native vegetation would result in unavoidable adverse impacts to native vegetation and wildlife. This loss of habitat is within the allowable 1 percent disturbance cap for the YDMA. Approval of this project brings the total disturbance in the YDMA to 0.805 percent, or approximately 461 acres. This leaves approximately 112 acres before the BLM reaches the 1 percent disturbance cap. Future development will stay within the 1 percent allowable disturbance cap, consistent with applicable requirements, and in contemplating potential future actions the BLM sees no potential to exceed this cap for this or future projects. Implementation of avoidance and mitigation measures would minimize adverse impacts. Compensation for permanent impacts to FTHL habitat within the YDMA will be at a 6:1 ratio in accordance with the management strategy. Acquisition of compensation lands would occur within undisturbed habitat suitable for FTHL. This mitigation would result in beneficial impacts to FTHL, as well as other species occurring within this habitat, due to an increase in undisturbed area and likely limitations on future disturbance within acquired lands. With these measures, the Ocotillo Sol Project would not substantially alter or interfere with wildlife or plant populations in the project area. Adverse impacts would be negligible overall and would affect a small, localized area.
- **Paleontological Resources.** Construction and decommissioning of the Ocotillo Sol Project would not likely result in adverse impacts to paleontological resources. Mitigation measures would be implemented to avoid and minimize potential adverse impacts to undiscovered paleontological resources within Class 3b areas.
- **Fire and Fuels.** Construction, operation and maintenance, and decommissioning of the Ocotillo Sol Project could result in negligible adverse impacts related to fire and fuels hazards. Mitigation measures would be implemented to avoid impacts related to fire and fuels hazards.
- **Recreation.** Construction, operation and maintenance, and decommissioning of the Ocotillo Sol Project would have negligible adverse impacts on recreation. Overall, due to minimal recreational use of the area, existing aesthetics, and existing land uses, the Ocotillo Sol Project would have no unavoidable adverse impacts to recreation.
- **Visual Resources.** Impacts to visual resources from dust emissions would be temporary and with the implementation of dust control measures would be minimized. This impact would

not be avoidable; however, mitigation measures as well as the short duration of the impact would result in minimal, if any, changes in viewshed.

### **3.1.1 RESPOND TO PURPOSE AND NEED**

The BLM's purpose and need for the Ocotillo Sol Project is to respond to the Applicant's externally generated application under Title V of FLPMA for a ROW grant to construct, operate, maintain, and decommission a solar PV energy-generating facility and associated infrastructure on public lands in compliance with FLPMA, BLM ROW regulations, and other applicable Federal laws. The Reduced Construction Footprint Alternative meets the BLM purpose and need, because it responds directly to the Applicant's ROW application. Although the BLM declined to issue a ROW for the Applicant's proposed project, it determined that issuing a ROW for the smaller Reduced Construction Footprint will further development of environmentally responsible renewable energy and assist in meeting other management objectives, while minimizing impacts to cultural, biological, visual and other resources. As explained in the Final EIS, the construction, operation, maintenance, and decommissioning activities associated with the Ocotillo Sol Project, either singularly or after implementation of the mitigation measures identified in the Final EIS (as amended by this ROD), are in conformance with applicable regulations and the following land use plans and BLM policies:

- CDCA Plan; and
- BLM policy and guidance for issuing ROW grants.

### **3.1.2 ACHIEVE GOALS AND OBJECTIVES**

The Reduced Construction Footprint Alternative will meet the BLM purpose and need, help meet power demand, and help achieve federal and state objectives for renewable energy development. The Ocotillo Sol Project complies with CDCA Plan objectives for the Multiple Use Class L land use designation. Additionally, the BLM consulted extensively with affected Native American tribes and other responsible parties to minimize impacts to biological, visual, cultural, and other resources. The Reduced Construction Footprint Alternative provides the best balance between maximizing renewable energy capacity while reducing adverse impacts as compared to the other action alternatives.

### **3.1.3 REQUIRED ACTIONS**

Required actions have been completed prior to issuance of this ROD, including the conclusion of consultation with Tribal Governments and the State Historic Preservation Office under Section 106 of the National Historic Preservation Act (NHPA).



### **3.1.4 INCORPORATE CDCA PLAN MANAGEMENT CONSIDERATIONS**

For the reasons set forth herein, the CDCA Plan amendment is warranted. The CDCA Plan amendment applies to the public lands within the boundary of the Ocotillo Sol solar facility site and gen-tie alignment as shown in Figure 2-4 of the Final EIS. The approval of the Project location based upon NEPA analysis and the criteria discussed herein satisfies the requirements of the CDCA Plan related to the approval of solar generation facilities on Multiple Use Class L lands within existing energy-generation and transmission corridors. The Governor's Consistency Review of this CDCA Plan Amendment is discussed in Section 3.2.5.1.

### **3.1.5 STATEMENT OF NO UNNECESSARY OR UNDUE DEGRADATION**

Congress declared that the public lands be managed for multiple use and sustained yield and in a manner to protect certain land values, provide food and habitat for species, and provide for outdoor recreation and human occupancy and use (43 USC 1701[a][7],[8]). Multiple use management means that public land resources are to be managed to best meet the present and future needs of the American public, taking into consideration the long-term needs of future generations and coordination of management of the various resources without permanent impairment of the productivity of the lands, and quality of the environment (43 USC 1702[c]). The BLM manages public lands through land use planning, acquisition, and disposition, and through regulation of use, occupancy, and development of public lands (Subchapters II and III, respectively, 43 USC 1711 to 1722, and 1731-1748).

The FLPMA specifically provides that in managing the use, occupancy, and development of public lands, the Secretary shall take any action necessary to prevent unnecessary or undue degradation of the lands (43 USC 1732[b]). The process for siting and evaluating the Ocotillo Sol Project has included extensive efforts on the part of BLM, the Applicant, other agencies, and members of the public to identify a project that accomplishes the purpose and need and other project objectives while preventing any unnecessary or undue degradation of the lands. These efforts have included:

- siting of the proposed facility in a location in which solar power development can be authorized;
- reduction of the proposed footprint of the facility to minimize impacts to biological, cultural, visual, and other resources;
- incorporation of mitigation measures to avoid, minimize, and compensate for impacts to biological, cultural, air quality, visual, and other resources; and

- evaluation of project location alternatives that could meet the purpose and need for the proposed project on BLM managed lands, but result in the avoidance and/or minimization of impacts.

In addition, BLM ROW regulations at 43 CFR 2805.11(a)(1) to (5) require BLM to limit the grant to those lands which:

- will be occupied with authorized facilities;
- are necessary for constructing, operating, maintaining, and decommissioning the authorized facilities;
- are necessary to protect the public health and safety;
- will not unnecessarily damage the environment; and
- will not result in unnecessary or undue degradation.

The lands described in Section 1.3.1 of this ROD are necessary to accommodate the Ocotillo Sol Project. The Ocotillo Sol Project meets the requirements of applicable ROW regulations inasmuch as it includes terms, conditions, and stipulations that are in the public interest; prevents surface disturbance unless and until a notice to proceed is secured; is issued for a period of 30 years, subject to potential renewal and periodic review; and contains diligence and bonding requirements to further protect public land resources. This approval provides that public land will be occupied only with authorized facilities and only to the extent necessary to construct, operate and maintain, and decommission the project. The BLM's grant contains terms and conditions that provide for public health and safety, and protect the environment and public lands. The terms and conditions include compliance with this ROD and the Final EIS. The foregoing provides the basis for this ROD's determination that the Ocotillo Sol Project will not unnecessarily or unduly degrade the public lands within the project site.

### **3.1.6 STATEMENT OF TECHNICAL AND FINANCIAL CAPABILITY**

The FLPMA and its implementing regulations provide the BLM the authority to require a project application to include information on an applicant's technical and financial capability to construct, operate, and maintain the solar energy facilities applied for (43 CFR 2804.12[a][5]). This technical capability can be demonstrated by international or domestic experience with solar energy projects or other types of electric energy-related projects on either Federal or non-Federal lands. Financial capability can be demonstrated by the disclosure of the availability of sufficient capitalization to carry out the proposed development.

San Diego Gas & Electric is a California corporation and regulated public utility that provides safe and reliable gas and electric service to 3.4 million consumers in a service area spanning 4,100 square miles in San Diego and southern Orange counties. San Diego Gas & Electric



currently owns and operates electric generation facilities, and has the financial and technical capabilities to develop, construct and operate the proposed PV generation facility.

The Applicant has provided information on the availability of sufficient capitalization to carry out development, including the preliminary construction and monitoring activities. Based on information provided by the Applicant during the ROW grant and environmental review processes, the BLM has determined that the grant holder has the technical and financial capability required to construct, operate and maintain, and decommission the approved facility.

## **3.2 RELATIONSHIP TO BLM AND OTHER AGENCY PLANS, PROGRAMS, AND POLICIES INCLUDING CONSULTATION**

### **3.2.1 SECTION 106 OF THE NATIONAL HISTORIC PRESERVATION ACT**

Section 106 of the National Historic Preservation Act (NHPA) requires Federal agencies to take into account the effect of undertakings within their jurisdictions on historic properties – those resources listed in or eligible for listing in the National Register of Historic Places (NRHP), and to afford the Advisory Council on Historic Preservation an opportunity to comment on the undertaking. The NRHP eligibility criteria are defined at 36 CFR 60.

The BLM initiated Section 106 consultation at the earliest stages of the undertaking in 2010, following the provisions of the *California State Protocol Agreement*. Pursuant to the 2012 *National Programmatic Agreement between the BLM, Advisory Council on Historic Preservation, and the National Conference of State Historic Preservation Officers* and consistent with recent guidance from the BLM Washington Office regarding major infrastructure projects, the BLM is now satisfying its obligations under NHPA for this undertaking pursuant to the regulations at 36 CFR Part 800.

As part of the identification and evaluation of historic properties under Section 106, a literature review, record search, built environment survey, and archaeological inventory were commissioned to identify historic properties within the Ocotillo Sol Project Area of Potential Effect (APE; LSA Associates 2011). The BLM El Centro Field Office sent a letter to the California State Historic Preservation Officer on February July 25, 2013, requesting concurrence on the BLM's finding of no historic properties effected, pursuant to 36 CFR Part 800.4(d)(1). On January 23, 2014, the BLM received a letter from the California State Historic Preservation Officer, concurring with its finding that, Pursuant to 36 CFR 800.5(b), the Project would cause no adverse effects to historic properties, thereby concluding consultation under Section 106.

### **3.2.2 TRIBAL CONSULTATION**

The BLM invited 15 Indian tribes to consult on a government-to-government basis for the project in accordance with several authorities, including the American Indian Religious Freedom Act, EO 13175, and Section 106 of the NHPA. Between February 2010 and November 2013, the BLM engaged in numerous government-to-government meetings and Section 106 consulting parties' meetings with interested Indian tribes. Tables 5-1 and 5-2 in the Final EIS list significant events in the BLM consultation process, including government-to-government and consulting parties' meetings, letters and other correspondence between the BLM and tribes, and comments and/or concerns raised by tribes.

Consultation with Indian tribes and discussions with tribal organizations and individuals have revealed very strong concern about the project and the impacts it could cause under all of the action alternatives. The tribes have stated during meetings and in written correspondence their perception of the importance and sensitivity of cultural resources within and near the Ocotillo Sol Project area. These concerns are addressed in Chapter 5.0 of the Final EIS.

### **3.2.3 OTHER FEDERAL AGENCIES**

The BLM has initiated and continued informal consultations with the U.S. Fish and Wildlife Service (USFWS) related to the Bald and Golden Eagle Act (BGEPA), the Migratory Bird Treaty Act (MBTA), and management of the FTHL. The BLM has also coordinated with the interagency FTHL Management Oversight Group and Interagency Coordinating Committee regarding this project. Other Federal agencies, including Customs and Border Protection and U.S. Army Corps of Engineers, have met and coordinated with the BLM and/or the Applicant.

The loss of active migratory bird nests or young is regulated by the MBTA. The BGEPA prohibits any form of possession or taking of either bald eagles or golden eagles, which is defined as to "pursue, shoot, shoot at, poison, wound, kill, capture, trap, collect, destroy, molest, disturb, or otherwise harm eagles, their nests, or their eggs."

The Final EIS included an evaluation of the Project's potential impacts on both migratory birds and golden eagles. In accordance with BLM Instruction Memorandum 2010-156 dated July 9, 2010, the BLM made a determination that the project is not likely to result in the take of golden eagles and would not disrupt essential breeding behavior.

The BLM acknowledges that preliminary monitoring of other utility-scale solar energy projects in the CDCA has shown that avian fatalities have occurred in association with solar project development. Because the current information is preliminary and the implications of it are still being evaluated, the BLM has determined that this information does not represent significant new circumstances or information relevant to environmental concerns under NEPA, and does not require supplementation of the current analysis. Also, new biological mitigation measure 21

requires avian mortality monitoring that will provide additional data for the BLM and USFWS to evaluate. The BLM will continue to monitor this and other solar energy projects within the CDCA, and if it becomes necessary, BLM may change the terms and conditions under the applicable grants per 43 CFR 2805.15.

The USFWS and FTHL ICC expressed concerns regarding the 1 percent disturbance cap within the YDMA. The BLM acknowledges that approving this project will result in the authorized and proposed disturbance on BLM administered land within the YDMA to reach 0.805 percent, leaving only 0.195 percent disturbance for all combined future actions that have not yet been proposed. The BLM will manage future actions within the 1% disturbance cap, subject to applicable requirements.

The BLM received a comment letter on the Final EIS from the U.S. Environmental Protection Agency regarding the air quality impacts, which the BLM is addressing via Appendix A of this ROD.

### **3.2.4 SOLAR PROGRAMMATIC EIS**

As described in Section 1.1.3.4, the Solar PEIS classifies the Ocotillo Sol Project as a “pending” project. Therefore, the project is not subject to the decision in the Solar PEIS ROD to exclude that area from utility-scale solar energy development. Consistent with the Solar PEIS ROD, this project will be processed under the land use plan decisions in place prior to the adoption of the Solar PEIS ROD.

### **3.2.5 CONSULTATION WITH STATE, REGIONAL, AND LOCAL AGENCIES**

The BLM and/or the Applicant have consulted with other State, regional, and local agencies as part of Ocotillo Sol Project planning, scoping, and public review of the EIS. The Applicant may have to obtain permits or other authorizations from other agencies or comply with requirements of other agencies that did not provide written input during the NEPA process. Those agencies include, but may not be limited to, the California Department of Fish and Wildlife (CDFW) and Imperial County.

The BLM received a letter from the Imperial County Air Pollution Control District regarding air quality impacts from the Ocotillo Sol Project. The recommendations of this letter are addressed in the paragraph above and in Appendix A.

#### **3.2.5.1 GOVERNOR’S CONSISTENCY REVIEW**

Pursuant to 43 CFR 1610.3-2, BLM must provide an opportunity for a governor to review a proposed resource management plan, revised plan, or plan amendment. The BLM State Director

is required to submit a proposed plan or amendment to the state governor for a 60-day review period, which commences with the issuance of the proposed plan amendment and EIS to the public. The Final EIS/Proposed CDCA Plan Amendment was reviewed by the Governor's Office of Planning and Research. The Governor's Office found no inconsistencies between the CDCA Plan Amendment and state or local plans, policies, or programs. The Governor's Consistency Review is available as part of the project's administrative record.

### **3.2.5.2 CALIFORNIA DEPARTMENT OF FISH AND WILDLIFE**

California Endangered Species Act review has been completed for impacts to state-listed species. Focused biological surveys for sensitive species have been conducted for the Ocotillo Sol Project area. The Applicant will work with CDFW and BLM to mitigate potential impacts to burrowing owl and FTHL. The BLM will continue to work with the U.S. Fish and Wildlife Service and CDFW regarding plants and animals potentially impacted by the project.

## **3.3 LAND USE PLAN CONFORMANCE AND CONSISTENCY**

### **3.3.1 CONFORMANCE WITH THE CDCA PLAN**

The 25-million-acre CDCA was designated by Congress in 1976 through FLPMA. The area, which encompasses portions of the Mojave, Sonoran, and Great Basin deserts, currently contains approximately 12 million acres of BLM administered public lands. The CDCA Plan serves as the land use guide for the management, use, development and protection of public lands within the CDCA. Public lands within the CDCA are managed based on the concepts of multiple-use, sustained yield, and maintenance of environmental quality.

The goal of the CDCA Plan is to provide for the use of the public lands and resources of the CDCA, including economic, educational, scientific, and recreational uses in a manner that enhances without diminishing the environmental, cultural, and aesthetic values of the desert and its productivity. This goal is to be achieved through the direction given for management actions and resolution of conflicts outlined in the CDCA Plan. Direction is provided for BLM-administered public lands in four multiple-use classes. The multiple-use classifications describe the type and level or degree of use that is permitted within geographic areas. Further refinement of direction of management of resources within the CDCA is expressed in the goals for motorized vehicle access, geology, energy production, and utility corridors and in certain site-specific plan decisions such as ACECs.

While renewable energy development is allowed within three of the four multiple-use class designations (Class L, M, and I) created by the plan guidelines of the CDCA Plan, a plan



amendment is required for renewable energy projects not previously identified in the plan and/or transmission facilities located outside of designated utility corridors.

### **3.3.2 NEED FOR A CDCA PLAN AMENDMENT**

Per the CDCA Plan, a plan amendment is required in connection with the Ocotillo Sol Project, because the project is not currently identified within the plan; therefore, a plan amendment is required to include that site as a recognized solar-generation location within the planning boundary. Approval of this power-generation site will result in an amendment to the Energy Production and Utility Corridors Element. The specific amendment will state that the Ocotillo Sol Project is allowed on the identified 102 acres. An additional amendment is proposed to be added to this section that would read: "Permission granted to construct solar energy facility (proposed Ocotillo Sol Project)."

The CDCA Plan planning criteria are the constraints and ground rules that guide and direct the development of the plan amendment. They ensure that the plan amendment is tailored to the identified issues and ensure that unnecessary data collection and analyses are avoided. As specified in Chapter 7, Plan Amendment Process, there are three categories of plan amendments, including:

- Category 1, for proposed changes that will not result in significant environmental impact or analysis through an EIS;
- Category 2, for proposed changes that would require a significant change in the location or extent of multiple-use class designation; and
- Category 3, to accommodate a request for a specific use or activity that will require analysis beyond the Plan Amendment Decision.

Based on these criteria, approval of the Ocotillo Sol Project requires a Category 3 amendment.

### **3.3.3 REQUIRED CDCA PLAN DETERMINATIONS**

The amendment process for the CDCA Plan is outlined in Chapter 7 of the plan. In analyzing an applicant's request for amending or changing the plan, the BLM State Director, California State Office, will do the following:

- determine if the request has been properly submitted and if any law or regulation prohibits granting the requested amendment;
- determine if alternative locations within the CDCA are available which would meet the applicant's needs without requiring a change in the plan's classification or an amendment to any plan element;
- determine the environmental effects of granting and/or implementing the applicant's request;

- Consider the economic and social impacts of granting and/or implementing the applicant's request;
- provide opportunities for and consideration of public comment on the proposed amendment, including input from the public and from federal, state, local, and tribal government agencies; and
- evaluate the effect of the proposed amendment on BLM management's desert-wide obligation to achieve and maintain a balance between resource use and resource protection.

The specific determinations required for the CDCA Plan Amendment evaluation are discussed in Table 1. The EIS for the Ocotillo Sol Project acts as the mechanism for evaluating both the proposed project and proposed plan amendments.

**TABLE 1**  
**CDCA PLAN AMENDMENT DETERMINATIONS**

Determinations	Conformance
Determine if the request has been properly submitted and if any law or regulation prohibits granting the requested amendment.	The Applicant's request for a ROW grant was properly submitted, and the EIS acts as the mechanism for evaluating and disclosing environmental impacts associated with the application. No law or regulation prohibits granting either the ROW or the associated CDCA Plan Amendment.
Determine if alternative locations within the CDCA are available which would meet the applicant's needs without requiring a change in the plan's classification, or an amendment to any plan element.	The BLM encouraged the Applicant to site its project on public land with the fewest potential conflicts. Alternatives considered but not fully analyzed included a Federal land alternative (land outside the YDMA) and non-Federal land alternative. At the time, there was no other location on public land within the CDCA that could serve as an alternative location without requiring a CDCA Plan Amendment. The Ocotillo Sol Project does not require a change in the Multiple Use Class classification of the project site.
Determine the environmental effects of granting and/or implementing the applicant's request.	The EIS acts as the mechanism for evaluating and disclosing environmental impacts associated with granting the ROW and approving the CDCA Plan Amendment.
Consider the economic and social impacts of granting and/or implementing the applicant's request.	The EIS acts as the mechanism for evaluating and disclosing environmental impacts associated with granting the ROW and approving the CDCA Plan Amendment.

**TABLE 1**  
**CDCA PLAN AMENDMENT DETERMINATIONS**

Determinations	Conformance
Provide opportunities for and consideration of public comment on the proposed amendment, including input from the public and from Federal, state, local, and tribal government agencies.	An initial 30-day scoping period for the Ocotillo Sol Project was announced by the publication of the Notice of Intent in the Federal Register on July 15, 2011. The BLM extended the scoping period by 10 days to August 25, 2011 as required to allow 15 days of comment after the public meeting and so that all interested parties would have an opportunity to participate in the process. The BLM hosted two public scoping meetings in El Centro, California, on August 10, 2011, at the Imperial County Executive Office. A Notice of Availability was published in the Federal Register on April 20, 2012 announcing a 90-day public comment period for the Draft EIS/Draft CDCA Plan Amendment. The formal comment period for the Draft EIS/Draft CDCA Plan Amendment was from April 20 to July 19, 2012. The BLM held two public comment meetings in El Centro, California, on May 23, 2012. A Notice of Availability was published July 26, 2013 to announce the availability of the Ocotillo Sol Final EIS/Proposed CDCA Plan Amendment, which initiated the 30-day protest period. No protests were received.



**TABLE 1**  
**CDCA PLAN AMENDMENT DETERMINATIONS**

Determinations	Conformance
Evaluate the effect of the proposed amendment on BLM management's desert-wide obligation to achieve and maintain a balance between resource use and resource protection.	The balance between resource use and resource protection is evaluated within the EIS. Title VI of FLPMA provides for the immediate and future protection and administration of the public lands in the California desert within the framework of a program of multiple use and sustained yield, and maintenance of environmental quality. Multiple use includes the use of renewable energy resources, and through Title V of FLPMA, the BLM is authorized to grant ROWs for generation and transmission of electric energy. The acceptability of use of public lands within the CDCA for this purpose is recognized through the plan's allowance of solar generating facilities within Multiple Use Class L lands after NEP A requirements are met. The purpose of the EIS is to identify resources which may be adversely impacted by approval of the proposed project, evaluate alternative actions which may accomplish the purpose and need with a lesser degree of resource impacts, and identify mitigation measures and BMPs which, when implemented, would reduce the extent and magnitude of the impacts and provide a greater degree of resource protection.

### **3.3.4 MULTIPLE USE CLASS GUIDELINES**

The ROW grant required for the solar facility site to be within an area that is designated as Multiple Use Class L (Limited Use) according to the CDCA Plan, as amended. Approximately 4 million acres of public lands within the CDCA are classified as Class L. These lands are managed to protect sensitive, natural, scenic, ecological, and cultural resource values, which is consistent with the applicable requirements set forth in the plan. Although Class L generally provides for lower-intensity, carefully controlled multiple uses that do not significantly diminish resource values, solar energy projects such as the Ocotillo Sol Project are permissible so long as they meet applicable requirements set forth in the CDCA Plan.

The Energy Production and Utility Corridors Element of the CDCA Plan recognizes the CDCA as an area where energy production facilities and utility corridors could be located. The element outlines BLM's management decisions for designation and implementation of a network of planning (utility) corridors to meet the projected utility needs and siting procedures for power plants and alternative energy sources. A site-specific NEPA analysis is required for all

applications for a ROW grant for any transmission line, regardless of whether the transmission line is in a corridor. In addition, implementation decisions outlined in the element indicate that an amendment to the CDCA Plan is required for all power-generation facilities not specifically identified in the CDCA Plan.

Sixteen joint-use planning (utility) corridors varying in width from 2 to 5 miles are identified in the CDCA Plan, as amended. These corridors are intended to include new electrical transmission lines of 161 kV or above, all pipelines with diameters greater than 12 inches, and major aqueducts or canals for inter-basin transfers of water. According to the CDCA Plan, applications for utility ROWs will be encouraged to use designated corridors by BLM management.

Because solar electric facilities are allowed under Multiple Use Class L designations, the Ocotillo Sol Project is consistent with the CDCA multiple-use class designations and does not require a plan amendment for reclassification of the project site for the solar facility. The project does require a plan amendment, however, to identify the site as suitable for solar energy development. The gen-tie line will also be on Class L lands; however, it is entirely within a designated corridor. A plan amendment is not required for that gen-tie line because it is already compliant with the applicable CDCA Plan requirements given that it is within an already approved corridor.

### **3.3.5 CDCA PLAN ELEMENTS**

#### **3.3.5.1 CDCA PLAN DECISION CRITERIA**

The decision criteria to be used for approval or disapproval of the proposed amendment require that the following determinations be made by the BLM State Director:

- The proposed amendment is in accordance with applicable laws and regulations; and
- The proposed amendment will provide for the immediate and future management, use, development, and protection of the public lands within the CDCA.

The BLM State Director will base the rationale for these determinations on the principles of multiple use, sustained yield, and maintenance of environmental quality as required under FLPMA. Multiple use is defined as management of public lands and their resource values in a combination that best meets the needs of present and future Americans, using some land for less than all of the resources, taking into account balanced and diverse use with long-term needs, and coordinating management of various resources without permanent impairment of productivity and environmental quality considering the relative values of the resources. Sustained yield is defined as achievement and maintenance in perpetuity of a high level annual or regular periodic output of the various renewable resources of the public lands consistent with multiple use. In this context, the authorized officer will determine whether the Ocotillo Sol Project comports with these FLPMA principles. In addition to defining the required analyses and decision criteria for

plan amendments, the CDCA Plan also defines the decision criteria to be used to evaluate future applications in the Energy Production and Utility Corridors Element of Chapter 3. These decision criteria include:

- Minimize the number of separate rights-of-way by utilizing existing rights-of-way as a basis for planning corridors;
- Encourage joint-use of corridors for transmission lines, canals, pipelines, and cables;
- Provide alternative corridors to be considered during processing of applications;
- Avoid sensitive resources wherever possible;
- Conform to local plans whenever possible;
- Consider wilderness values and be consistent with final wilderness recommendations;
- Complete the delivery systems network;
- Consider ongoing projects for which decisions have been made; and
- Consider corridor networks which take into account power needs and alternative fuel resources.

The CDCA Plan, as amended, states that the same criteria used for determining decisions within the CDCA Energy Production and Utility Corridors Element would also be used to evaluate applications for specific electrical ROW or power plant sites. The conformity of the Ocotillo Sol Project with the CDCA Plan's Energy Production and Utility Corridors Element Decision Criteria is shown in Table 2.

**TABLE 2**  
**CONFORMITY WITH CDCA PLAN ENERGY PRODUCTION AND UTILITY**  
**CORRIDORS ELEMENT DECISION CRITERIA**

Decision Criteria	Compliance
Minimize the number of separate rights-of-way by utilizing existing rights-of-way as a basis for planning corridors.	The Ocotillo Sol Project does not require a separate ROW grant as its proposed gen-tie transmission line is entirely within an existing designated corridor.
Encourage joint-use of corridors for transmission lines, canals, pipelines, and cables.	The Ocotillo Sol Project's proposed gen-tie transmission line is entirely within an existing designated corridor.

**TABLE 2**  
**CONFORMITY WITH CDCA PLAN ENERGY PRODUCTION AND UTILITY**  
**CORRIDORS ELEMENT DECISION CRITERIA**

Decision Criteria	Compliance
Provide alternative corridors to be considered during processing of applications.	Alternative generation site locations were considered during the planning process and are discussed in Chapter 2 of the Final EIS/Proposed CDCA Plan Amendment. The closest available federal land outside the YDMA lies approximately 5.5 miles from the Imperial Valley Substation. The Applicant considered seven alternative sites on private lands within a 2-mile radius of the Imperial Valley Substation. These alternative locations were determined to be technologically and economically infeasible.
Avoid sensitive resources wherever possible.	The extent to which the Ocotillo Sol Project has been located and designed to avoid sensitive resources is addressed throughout the Final EIS/Proposed CDCA Plan Amendment. As part of the alternatives development process, the Applicant conducted preliminary biological, cultural, hydrological, and geological reviews to evaluate site conditions within a larger (350-acre) area surrounding the proposed Ocotillo Sol Project site. Based on these reviews, portions of the initial proposed 350-acre Ocotillo Sol Project application area were determined to be unsuitable for development and were eliminated from further consideration.
Conform to local plans whenever possible.	Although the Imperial County 2009 State Implementation Plan has not been approved by the Environmental Protection Agency, BLM will adhere to it in the expectation that it will be approved. As noted above, the Applicant's proposed Ocotillo Sol Project would need to conform to the State Implementation Plan pursuant to general conformity requirements of the Clean Air Act. Although the Ocotillo Sol Project would be entirely on Federal lands and not subject to the Imperial County General Plan, it would nevertheless be consistent with that plan.
Consider wilderness values and be consistent with final wilderness recommendations.	The Ocotillo Sol Project is not within designated wilderness or a wilderness study area.

**TABLE 2**  
**CONFORMITY WITH CDCA PLAN ENERGY PRODUCTION AND UTILITY**  
**CORRIDORS ELEMENT DECISION CRITERIA**

Decision Criteria	Compliance
Complete the delivery systems network.	This decision criterion is not applicable to the Ocotillo Sol Project.
Consider ongoing projects for which decisions have been made.	This decision criterion is not applicable to the Ocotillo Sol Project.
Consider corridor networks which take into account power needs and alternative fuel resources.	This decision criterion is not applicable to the Ocotillo Sol Project.

### 3.3.6 CONFORMANCE WITH APPLICABLE PLAN AMENDMENTS

The *FTHL Rangewide Management Strategy, 2003 Revision: An Arizona–California Conservation Strategy* encourages surface-disturbing projects to be sited outside FTHL management areas whenever possible. It does not, however, preclude such projects from being sited in a management area. If a project must be sited within a management area, efforts should be made to site the project in a previously disturbed area or in an area where habitat quality is poor and construction should be timed to minimize potential mortality. New ROWs may be permitted along the boundaries of management areas, but only if impacts can be mitigated to avoid long-term effects on FTHL within the management areas. For ROWs within the boundaries of management areas, mitigation would need to be incorporated. Additionally, the cumulative disturbance area per management area from all projects must not exceed 1 percent. To discourage development in management areas the mitigation ratio for habitat impacts can be as high as 6:1. Since the Ocotillo Sol Project would be sited within the YDMA, created through a 2004 CDCA Plan amendment, it would be subject to these disturbance limits and mitigation requirements.

The BLM has determined to add additional biological monitoring measures in addition to the measures identified in the Final EIS; these new measures are set forth in detail in Appendix A of this ROD. The BLM has determined that the additional monitoring is appropriate because:



- While the new FTHL-specific measures in Appendix A are not listed in the FTHL Rangewide Management Strategy, the strategy states on page 58 that the measures listed therein can be modified to conform to the nature of a specific project.
- Construction of the Ocotillo Sol Project will bring the YDMA close to the 1 percent disturbance cap, the exceedance of which may cause the FTHL to become a listed threatened or endangered species. The total existing, authorized disturbance within the YDMA as of the time of this writing is 327.40 acres, or 0.571 percent of the 57,304.00 acres under BLM management within the YDMA. Adding in the Ocotillo Sol and all authorized (but not yet initiated) disturbance brings the total to 445.25 acres or 0.777 percent of the YDMA. Adding in all projects currently proposed for BLM authorization brings the total to 461.45 acres, or 0.805 percent, close to—but still below—the 1 percent cap.
- Recent research on FTHL mitigation at other Federal projects in the region indicated a need for further monitoring of the potential effectiveness of established FTHL mitigation measures, which suggests that additional monitoring of those measures would be prudent here.
- Wildlife mortality monitoring, with results submitted to the BLM, is currently required for solar projects constructed on nearby private land.
- The additional monitoring measures are the result of additional coordination between USFWS and the BLM after the FEIS was published.

Since these additional wildlife mortality monitoring measures will not result in impacts beyond the scope of those analyzed in the Final EIS, the BLM has determined that supplementation is not required. Based on the foregoing, the BLM has determined that the Ocotillo Sol Project does not conflict with any of the adopted CDCA Plan amendments.

## 4.0 ALTERNATIVES

### 4.1 ALTERNATIVES FULLY ANALYZED

**Alternative 1: No Action / No CDCA Plan Amendment.** Under Alternative 1, the BLM would not amend the CDCA Plan and would not issue a ROW grant. Because the Solar PEIS ROD would apply to any new application in the project area, should the BLM select this alternative and not approve the project, the Solar PEIS ROD would exclude the site from any future solar energy development.

**Alternative 2: Applicant's Proposed Project/CDCA Plan Amendment.** Under Alternative 2, BLM would amend the CDCA Plan to identify all 115 acres as suitable for solar energy development and allow solar development on this land. A plan amendment would not be required for the proposed generation tie line and interconnection facilities, as they lie within a previously designated corridor (Utility Corridor N) under the CDCA Plan. As noted in Section 1.7.8.2 of the Final EIS, the implementation section of the Energy Production and Utility Corridors Element of the CDCA Plan lists a number of Category 3 amendments that have been approved since adoption of the CDCA Plan in 1980. An additional amendment is proposed to be added to this section that would read: "Permission granted to construct solar energy facility (proposed Ocotillo Sol Project)."

**Alternative 3: Reduced Construction Footprint Alternative (Preferred Alternative).**

Alternative 3, the reduced footprint alternative, is the BLM's Preferred Alternative. Alternative 3 would be the same as Alternative 2 except that it would be modified to reduce the total area of disturbance in the YDMA associated with the Ocotillo Sol Project. The temporary construction laydown area described under Alternative 2 would be reduced to 2 acres under Alternative 3 (Figure 2-4 in Appendix A of the Final EIS) as compared to 15 acres under Alternative 2. The construction office, restrooms, and other facilities would be placed within the 100-acre or 2-acre laydown area, as needed. By reducing the laydown area, Alternative 3 would necessitate the Applicant's management of laydown and staging within the 100-acre Ocotillo Sol Project site as construction activities progress. Under Alternative 3, the 2-acre temporary laydown area would be used for construction workforce parking. Alternative 3 would also allow off-site parking and busing the work force to the construction site.

Under Alternative 3, BLM would amend the CDCA Plan to identify all 102 acres as suitable for solar development and allow solar development on this land. Lands outside the Ocotillo Sol ROW, including the 13 acres excluded from the proposed alternative (see Figure 1), will be subject to the existing land use plan. Under the CDCA Plan, as amended by the Solar PEIS, these lands will be excluded from utility-scale solar development. As with Alternative 2, a plan

amendment would not be required for the generation tie line, as the generation tie line and interconnection facilities under this alternative lie fully within a BLM designated corridor and would be compliant with the CDCA Plan.

**Alternatives 4 and 5: No Project/CDCA Plan Amendment Alternatives.** As explained in Chapter 1, Section 1.7.7 of the Final EIS, the Draft EIS considered two No Project/CDCA Plan Amendment alternatives—Alternative 4 and Alternative 5. Under Alternative 4, the BLM would not have approved the Applicant's ROW grant and would have amended the CDCA Plan to identify the project area as suitable for solar energy development. Under Alternative 5, the BLM would not have approved the Applicant's ROW grant and would have amended the CDCA Plan to identify the project area as unsuitable for solar energy development. As a result of the decisions made in the Solar PEIS ROD, the BLM determined that Alternative 4 and Alternative 5 were infeasible and unnecessary, respectively, and therefore were not carried forward in the Final EIS.

## 4.2 ALTERNATIVES NOT FULLY ANALYZED

In accordance with 43 CFR 2804.10, the BLM worked closely with the Applicant during the pre-application phase to identify other potential areas for their proposed project before the Applicant filed their ROW application. For example, where feasible, the BLM discouraged the Applicant from including in their application alternate BLM locations with significant environmental concerns, such as critical habitat, Desert Wildlife Management Areas, designated off-highway vehicle areas, wilderness study areas, and designated wilderness areas, or other sensitive resources. The BLM encouraged the Applicant to site its project on public land with the fewest potential conflicts. Other alternative sites and various renewable and nonrenewable generation technologies were considered but eliminated from detailed analysis under NEPA for the reasons set forth below. These alternatives were eliminated from detailed analysis, because one or more of the following factors from the BLM NEPA Handbook H-1790-1 (2008) apply:

- It would not respond to the BLM purpose and need.
- It is technologically or economically infeasible.
- It is inconsistent with the basic policy objectives for the management of the area (not conforming to the CDCA Plan).
- Its implementation is remote or speculative.
- It is substantially similar in design to an alternative that is analyzed.
- It would have substantially similar effects to an alternative that is analyzed.

Alternatives not fully analyzed, but considered in the EIS include the following:

- Federal Land Alternative, outside the YDMA

- Non-Federal Land Alternative
- Alternative Energy Generation Technologies
- Conservation and Demand-side Management and Distributed Generation

The reasons for not analyzing these alternatives are explained in the Final EIS in more detail.

### **4.3 ENVIRONMENTALLY PREFERRED ALTERNATIVE**

In accordance with 40 CFR 1502.2(b), the BLM has identified Alternative 3, the Reduced Construction Footprint Alternative, as the environmentally preferred alternative, because the reduced footprint would reduce impacts to the biological and physical environment in the project area.

### **4.4 AGENCY PREFERRED ALTERNATIVE / SELECTED ALTERNATIVE**

In accordance with 40 CFR 1502.14(e), the BLM has identified Alternative 3, the Reduced Construction Footprint Alternative, as the Agency Preferred Alternative and the Selected Alternative. Alternative 3 will have a reduced footprint, and the impacts to resources under Alternative 3 would be less than under the Applicant's proposed project.

As part of the Ocotillo Sol Project, the CDCA Plan will be amended to identify all 102 acres of the ROW as suitable for solar development. Lands outside the Ocotillo Sol ROW, including the 13 acres excluded from the proposed alternative (see Figure 1), will be subject to the existing land use plan. Under the CDCA Plan, as amended by the Solar PEIS, these lands will be excluded from utility-scale solar development.

## **5.0 PUBLIC INVOLVEMENT**

### **5.1 SCOPING**

An initial 30-day scoping period for the Ocotillo Sol Project was announced by the publication of the Notice of Intent in the *Federal Register* on July 15, 2011. The Ocotillo Sol Project scoping meetings were announced through media releases, e-mail, and the BLM California Desert District Web site. In addition, postcards announcing the scoping meetings were sent to more than 100 addresses. The BLM extended the scoping period by 10 days to August 25, 2011 as required to allow 15 days of comment after the public meeting and so that all interested parties would have an opportunity to participate in the process.

The Notice of Intent announced the period for public scoping of alternatives, issues, impacts, and planning criteria. The Notice of Intent also requested the views of other agencies regarding the scope and content of the environmental information relevant to their statutory responsibilities or areas of expertise. Federal, state, and local agencies, as well as individuals or organizations that were interested or may be affected by the BLM's decision on the Ocotillo Sol Project, were invited to participate in the scoping process. Eligible agencies could request to participate as a cooperating agency.

The BLM hosted two public scoping meetings in El Centro, California, on August 10, 2011, at the Imperial County Executive Office. Approximately 18 people attended the two meetings. Both meetings were conducted as an open house, allowing participants to review maps, display boards, and ask specific questions of BLM staff available at the display stations. A letter from the BLM to the public provided information about the scoping meetings and process, and was made available as a handout for the public. Fact sheets about the project and NEPA process were also made available, along with comment forms.

During the public scoping period, two Federal agencies, eight special interest (environmental) organizations (many of which combined their comments), and three individuals provided comments by email. No scoping comments, written or verbal, were received at either of the two scoping meetings. A scoping report was prepared and made available to the public (Appendix O of the Final EIS). Comments received during the scoping process were addressed in the Draft EIS.

### **5.2 DRAFT EIS PUBLIC COMMENT PERIOD**

A Notice of Availability was published in the *Federal Register* on April 20, 2012 announcing a 90-day public comment period for the Draft EIS/Draft CDCA Plan Amendment. The BLM also



issued a news release via the Internet and linked to the project Web site. In conjunction with the news release, postcards announcing the availability of the Draft EIS/Draft CDCA Plan Amendment were mailed to local community members, tribes, environmental organizations, and other parties interested in the project. A second postcard announcing the date, location, and times of the public comment meetings was mailed to the same mailing list.

The formal comment period for the Draft EIS/Draft CDCA Plan Amendment was from April 20 to July 19, 2012. The BLM held two public comment meetings in El Centro, California, on May 23, 2012. The BLM presented information on the Draft EIS/Draft CDCA Plan Amendment and heard comments from the meeting attendees. The public was also encouraged to submit written comments. Written comments were accepted until the close of the formal comment period.

The BLM received 13 comment letters (including public comment forms from public meetings, postal letters, emails, and faxes) from individuals, agencies, organizations, and groups during the public comment period for Draft EIS and Draft CDCA Plan Amendment. The formal comment period commenced with the publication of the Draft EIS and Draft CDCA Plan Amendment on April 20, 2012 and ended 90 days later on July 19, 2012. The majority of comment letters were received from entities within California; one comment letter was received from Arizona. All comment letters received by the BLM during the formal public comment period were responded to and are included in Appendix P of the Final EIS.

### **5.3 PROTESTS**

A protest is an opportunity for a qualified party (any person who participated in the planning process and has an interest which is or may be adversely affected) to seek an administrative review of a proposed plan amendment decision in accordance with program-specific regulations. Specifically, the plan amendment decision subject to protest is whether to find the project location suitable or unsuitable for solar energy development.

A Notice of Availability was published July 26, 2013 to announce the availability of the Final EIS/Proposed CDCA Plan Amendment, which initiated the 30-day protest period. The BLM did not receive any protest letters during the public protest period. The BLM did, however, receive two comment letters - one from the U.S. Environmental Protection Agency and one from the Imperial County Air Pollution Control District - related to potential air quality impacts in the Project area. Even though there was no comment period provided for the FEIS, the BLM considered these letters to the extent practicable, and they are addressed in Appendix A of this ROD as applicable.

## 6.0 FINAL AGENCY ACTION

### 6.1 LAND USE PLAN AMENDMENT

It is the decision of the BLM to approve the Proposed Plan Amendment to the CDCA Plan to identify the project site (Ocotillo Sol Project) as available for solar energy development and approve the Ocotillo Sol Project.

Based on the recommendation of the State Director, California, I hereby approve amending the CDCA Plan to find the project site suitable for solar energy development and to approve the Ocotillo Sol Project. This approval is effective on the date this Record of Decision is signed.

Approved by:



Neil Kornze  
Principal Deputy Director  
Bureau of Land Management  
U.S Department of the Interior

4/3/14

Date

### 6.2 RIGHT-OF-WAY AUTHORIZATION

It is my decision to approve a solar energy right-of-way lease/grant to San Diego Gas & Electric, subject to the terms and conditions of the grant developed by the Department and reflected in this Record of Decision. The right-of-way lease/grant decision is effective on the date this Record of Decision is signed. It is my further decision to approve the temporary rout closures described in this Record of Decision.

Approved by:



Neil Kornze  
Principal Deputy Director  
Bureau of Land Management  
U.S Department of the Interior

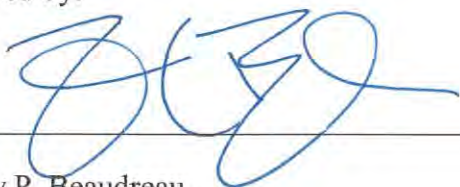
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Date

### 6.3 SECRETARIAL APPROVAL

I hereby approve these decisions. My approval of these decisions constitutes the final decision of the Department of the Interior and, in accordance with the regulations at 43 CFR 4.410(a)(3), is not subject to appeal under Departmental regulations at 43 CFR Subpart 4.400. Any challenge to these decisions, including BLM Authorized Officer's issuance of the right-of-way as approved by this decision, must be brought in the Federal District Court.

Approved by:



Tommy P. Beaudreau  
Principal Deputy Assistant Secretary,  
Land and Minerals Management  
U.S. Department of the Interior



Date

## 7.0 REFERENCES CITED

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